

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON DIVISION

IN RE: JOHNSON & JOHNSON) MDL No. 2738
TALCUM POWDER PRODUCTS)
MARKETING, SALES PRACTICES)
& PRODUCTS LIABILITY)
LITIGATION)

This Document Relates to:

CYNTHIA KANNADY, et al.,) Civil Action No. 3:19-cv-13476-FLW-LHG

Plaintiffs,

v.

JOHNSON & JOHNSON, *et al.*,

Defendants.

) **NOTICE OF RENEWED MOTION**
) **TO DISMISS FOR LACK OF PERSONAL**
) **JURISDICTION AND FAILURE TO**
) **STATE A CLAIM BY SPECIALLY-**
) **APPEARING DEFENDANT**
) **PTI ROYSTON, LLC¹**

TO: All Counsel of Record

COUNSEL:

PLEASE TAKE NOTICE that the undersigned attorneys for Specially-Appearing Defendant PTI Royston, LLC² (“Royston”), hereby renew its motion, pursuant to Fed. R. Civ. P. 12(b)(2) and (b)(6), to dismiss Plaintiffs’ claims against it for lack of personal jurisdiction and failure to state a claim upon which relief can be granted, which application shall be made before the United States District Court

¹ This is a special/limited appearance inasmuch as PTI Royston, LLC is not waiving any objections it may have to personal jurisdiction.

² *Id.*

for the District of New Jersey on September 3, 2019³ or as soon thereafter as Specially-Appearing Defendant Royston may be heard. Plaintiffs' claims against Royston fail for the following reasons:

- Plaintiffs lack evidence that would support a Missouri court's exercise of either specific or general personal jurisdiction over Royston, a Delaware LLC with a principal place of business in Georgia and *no* relevant Missouri contacts.
- The First Amended Petition fails to identify the facts relevant to each Plaintiff concerning product usage and diagnosis, and thus fails to plead plausible claims against Royston, as required by *Iqbal* and *Twombly*.
- Even if Plaintiffs could amend their First Amended Petition to attempt to state viable claims, their claims against Royston would still fail under the Missouri contract specifications doctrine.
- Further, Plaintiffs' implied warranty claims fail for lack of pre-suit notice, the wrongful death claims fail in the absence of liability, and the concert of action and punitive damages claims fail for lack of a viable substantive claim, respectfully.

The grounds for this Motion are set forth in more detail in the accompanying Memorandum in Support and attached Certification of Counsel.

Oral argument is requested if this Motion is opposed.

³ Royston notices this Motion for the September 3, 2019 return date pursuant to this Court's MDL No. 2738 Case Management Order No. 1(11) and the briefing schedule contained therein.

Dated: July 2, 2019

Respectfully submitted,

/s/ Caroline M. Tinsley

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 2, 2019, the foregoing was electronically filed with the Clerk of Court to be served by operation of the Court's electronic filing system on all counsel of record.

/s/ Caroline M. Tinsley

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